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| 30542 7590 09/17/2009 FOLEY & LARDNER LLP P.O. BOX 80278 SAN DIEGO, CA 92138-0278 | | | | |
| EXAMINER | | | | |
| BAROT, BHARAT | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/756,184

Applicant(s)

KAAPPA, EERO

Examiner

Bharat N. Barot

Art Unit

2455

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

RESPONSE TO REQUEST FOR CONTINUED EXAMINATION (RCE)

1. Claims 1-21 are pending and remain for further examination.

The old rejection maintained

2. Applicants' arguments and amendments with respect to claims 1-21 and request for continued examination (RCE) filed on August 11, 2009 have been fully considered but they are deemed to be persuasive for the claims 1-21. The rejection is respectfully maintained as set forth in the last Office Action mailed on May 11, 2009.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention of the claims 1-6 is directed to non-statutory subject matter. Claim 1 recited "A method comprising: receiving a provisioning content document...; parsing the provisioning content document...; and identifying a flag parameter..." which are purely mental steps and did not tied with an apparatus that accomplishes the method steps; therefore, the method is not a patent eligible process under 35 USC § 101 and as being directed to non-statutory subject matter.

Other dependent claims, which are not specifically cited above are also rejected because of the deficiencies of their respective parent claims.

Claim Rejections - 35 USC § 103(a)

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hindawi et al (U.S. Patent No. 6,879,979) in view of Bakke et al (U.S. Patent No. 7,353,259).
7. As to claim 1, Hindawi et al teach a method comprising: receiving a provisioning content document (query document) from a wireless communication network, the provisioning content document comprising configuration information for a device (figure 1, column 3 lines 17-24, column 5 lines 40-44, column 5 line 51 to column 6 line 3, and column 6 lines 18-23, reference disclose wireless communication); parsing the provisioning content document including a plurality of characteristics; and identifying a number in an application characteristic of the plurality of characteristics in the provisioning content document (see abstract, figure 1, column 3 lines 49-61, column 4 lines 28-30, and column 6 line 57 to column 7 line 20).

However, Hindawi et al do not teach a method for client provisioning using an application characteristics template with flag functionality, comprising: identifying a flag

parameter in an application characteristic of the plurality of characteristics in the provisioning content document, wherein the flag parameter indicates whether parameters are to be set in the configuration of the device.

Bakke et al teach a method for client provisioning using an application characteristics template with flag functionality, comprising: identifying a flag parameter in an application characteristic of the plurality of characteristics in the provisioning content document (figure 2, and column 5 line 39 to column 6 line 48), wherein the flag parameter indicates whether parameters are to be set in the configuration of the device (figure 5, column 8 lines 15-26, and column 12 line 31 to column 13 line 16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bakke et al in the method of Hindawi et al for client provisioning using an application characteristics template with flag functionality because it would have provided efficient failure recovery and configuration information exchanges between devices and performed tasks and applications without burdening the network with excessive network traffic.

NOTE: Hindawi et al teach that receiving a provisioning content document (query document) from a wireless communication network, the provisioning content document comprising configuration information for a device (figure 1, column 3 lines 17-24, column 5 lines 40-44, column 5 line 51 to column 6 line 3, and column 6 lines 18-23, reference disclose wireless communication); and disclose that the query document carries configuration information (see abstract, column 3 lines 17-24, and column 5 line 51 to column 6 line 3). Hindawi et al explicitly teaches the claimed limitations recited in the claim 1. Accordingly, appellant's arguments that Hindawi et al fails to disclose these limitations are moot.

NOTE: Hindawi et al teach that receiving a provisioning content document (query document) from a wireless communication network (figure 1, column 3 lines 17-24, column 5 lines 40-44, column 5 line 51 to column 6 line 3, and column 6 lines 18-23, reference disclose wireless communication and information is configuration information). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., direction for a message and wireless communication network) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.Cir.1993). Hindawi et al explicitly teaches the claimed limitations recited in the claim 1. Accordingly, appellant's arguments that Hindawi et al fails to disclose these limitations are moot.

NOTE: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed.Cir.1986). The combination of *Hindawi et al* and *Bakke et al* explicitly teaches the claimed limitations recited in the claim 1 (see modified rejection of claim 1). Accordingly, appellant's arguments that *Bakke et al* fails to disclose these limitations are moot.

8. As to claims 2-4, *Hindawi et al* teach that the application characteristic comprises multiple levels (figure 1, columns 3-4, and columns 6-7); and *Bakke et al* also teach that the flag parameter is introduced in one level or all levels of the application characteristic (figures 2 and 5, column 8, and columns 12-13).

9. As to claims 5-6, *Bakke et al* teach that the flag parameter has a meaning defined in a registration document, the flag parameter defines a common flag type parameter such that the presence of the flag parameter indicates that the parameter is used, otherwise, the parameter is omitted (figures 2, 5, and 7, column 5 line 39 to column 6 line 48, column 12 line 31 to column 13 line 16, and column 13 line 60 to column 15 line 27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of *Bakke et al* in the method of *Hindawi et al* for client provisioning using an application characteristics template with flag functionality because it would have provided efficient failure recovery and configuration information exchanges between devices and performed tasks and applications without burdening the network with excessive network traffic.

10. As to claims 7-13, they are also rejected for the same reasons set forth to rejecting claims 1-6 above, since claims 7-13 are merely an apparatus for the method of operations defined in the method claims 1-6. Additionally, Hindawi et al teach that the device is using wireless connection, which implies that the device is a mobile telephone or a portable device (see summary, column 1 lines 22-34 and 55-60, and column 5 lines 40-45).

11. As to claims 14-17, claims 14-17 do not teach or define any new limitations than above claims 1-13; therefore, they are rejected for the similar reasons.

12. As to claims 18-21, they are also rejected for the same reasons set forth to rejecting claims 1-6 above, since claims 18-21 is merely a computer program product for the method of operations defined in the method claims 1-6.

Response to Arguments

13. Applicant's arguments have been fully considered. The examiner has attempted to answer (response) to the remarks (arguments) in the body of the Office action.

Contact Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 7:00 AM to

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3:30 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

/Bharat N Barot/

Primary Examiner, Art Unit 2455

September 08, 2009